

SUMMARY OF PROPOSED COMMITTEE DRAFT:

**Bill 67 (2015), CD1, FD1
RELATING TO REAL PROPERTY TAX EXEMPTIONS**

PROPOSED CD2 makes the following amendments:

- A. Amends the definition for "Property Owner" to allow memorandums of lease to be entered into and recorded at the bureau of conveyances or filed in the office of the assistant registrar of the land court.
- B. Amends the definition of "Small business" to mean a business that meets the U.S. Small Business Administration's industry-specific small business size standards as set forth in 13 CFR 121.201, under Sector 44-45 - Retail Trade and Subsector 722 - Food Services and Drinking Places.
- C. Amends the definition of "Small business property affected by Honolulu High Capacity Transit Project construction" to specify that the small business or small businesses be within one-half mile of the project route between the West Loch and Pearlridge Center stations.
- D. Makes miscellaneous technical and non-substantive amendments.



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RELATING TO REAL PROPERTY TAX EXEMPTIONS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to create a real property tax exemption for certain real property affected by the construction of the Honolulu High Capacity Transit Project.

SECTION 2. Chapter 8, Article 10, Revised Ordinances of Honolulu 1990 ("Exemptions"), is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 8-10. Exemption-Transit mitigation.

(a) When used in this section:

"Gross income" means the same as provided in HRS Section 237-3 or any successor statute pertaining to the calculation of the Hawaii State general excise tax.

"Project" means the Honolulu High Capacity Transit Project.

"Property owner" means a fee owner or any lessee of real property whose lease term covers at least the tax year for which the exemption is claimed. Such lease or a memorandum of lease must be duly entered into and recorded at the bureau of conveyances or filed in the office of the assistant registrar of the land court, on or before the date of the application for this exemption.

"Small business" means a business that meets the U.S. Small Business Administration's industry-specific small business size standards as set forth in 13 CFR 121.201 under Sector 44-45 - Retail Trade and Subsector 722 - Food Services and Drinking Places.

"Small business property affected by Honolulu High Capacity Transit Project construction" means any real property that is exclusively and actively used for a small business or small businesses and is within one-half mile of the project route between the West Loch and Pearlridge Center stations, provided that the determination as to whether a property is within one-half mile of the project route between the West Loch and Pearlridge Center stations is measured by a straight line from the closest point of the zoning lot to the closest point of the existing or planned project route between the West Loch and Pearlridge Center stations.



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- (b) The exemption from real property taxes for small business property affected by the Honolulu High Capacity Transit Project construction is 50 percent of the assessed value.
- (c) An application for this exemption must be filed annually by the property owner with the director on forms prescribed by the director.
- (d) The director may adopt rules to implement this section. The rules may include rules for the allocation of the benefit of the exemption among the small businesses on the property."

SECTION 3. Section 8-10.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 8-10.1 Claims for certain exemptions.

- (a) None of the exemptions from taxation granted in Sections 8-10.4, 8-10.6 through [8-10.11,] 8-10.10, 8-10.24, 8-10.27, 8-10.29, 8-10.32, [and] 8-10.33, and 8-10. [shall be] is allowed in any case, unless the claimant [shall have] has filed with the department of budget and fiscal services on or before September 30th preceding the tax year for which such exemption is claimed, a claim for exemption in such form as [shall be] is prescribed by the department.
- (b) [A] Except for the exemption for transit mitigation under Section 8-10. , a claim for exemption, once allowed, [shall have] has continuing effect until:
 - (1) The exemption is disallowed;
 - (2) The assessor voids the claim after first giving notice (either to the claimant or to all claimants in the manner provided for by this chapter) that the claim or claims on file will be voided on a certain date, not less than 30 days after such notice;
 - (3) The five-year period for exemption, as allowed in [Sections] Section 8-10.4(e) [and 8-10.11,] expires; or
 - (4) The report required by subsection (d) is made.
- (c) A claimant may file a claim for exemption even though there is on file and in effect a claim covering the same premises, or a claim previously filed and



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disallowed or otherwise voided. However, no such claim [shall be filed] is required if it is identical with one already on file and having continuing effect. The report required by subsection (d) of this section may be accompanied by or combined with a new claim.

- (d) The owner of any property which has been allowed an exemption under Sections 8-10.4, 8-10.6 through 8-10.10, 8-10.24, 8-10.27, 8-10.29, 8-10.32, [or] 8-10.33, or 8-10. has a duty to report to the assessor within 30 days after such owner or property ceases to qualify for such an exemption for, among others, the following reasons:

- (1) The ownership of the property has changed;
- (2) A change in the facts previously reported has occurred concerning the occupation, use or renting of the premises, buildings or other improvements thereon; or
- (3) A change in status has occurred which affects the owner's exemption.

Such report [shall have] has the effect of voiding the claim for exemption previously filed, as provided in subsection (b)(4) of this section. The report [shall] will be sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.

In the event the property comes into the hands of a fiduciary who is answerable as provided for by this chapter, the fiduciary [shall] must make the report required by this subsection within 30 days after the assumption of the fiduciary's duties or within the time otherwise required, whichever is later.

A penalty [shall] will be imposed if the change in facts occurred in the 12 months ending September 30th preceding the tax year for which an exemption is to take effect and the report required by this subsection is not filed by the immediately following November 1st. The amount of the penalty [shall be] is \$300 imposed on the November 2nd preceding the tax year for which the owner or the property no longer qualifies for the exemption and on November 2nd for each year thereafter that the change in facts remains unreported. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon [shall be] is a paramount lien on the property as provided for by this chapter.



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- (e) If the assessor is of the view that, for any tax year, the exemption should not be allowed, in whole or in part, the assessor may at any time within five years of October 1st of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided for by this chapter for the assessment of omitted property."

SECTION 4. Ordinance material to be repealed is bracketed and new ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring, the brackets or the bracketed material.



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SECTION 5. This ordinance takes effect upon its approval and applies to tax years beginning July 1, 2017, July 1, 2018 and July 1, 2019 only.

INTRODUCED BY:

Carol Fukunaga

Ernest Martin

DATE OF INTRODUCTION:

August 27, 2015

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu